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| 10/539,077      | 06/15/2005  | Robert Ernten        | 3657-1028           | 9230             |

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209 Madison Street  
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ALEXANDRIA, VA 22314

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| EXAMINER |
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PARSLEY, DAVID J

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| ART UNIT | PAPER NUMBER |
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3643

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06/03/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                       |  |
|------------------------------|--------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/539,077 | <b>Applicant(s)</b><br>ERNSTEN ET AL. |  |
|                              | <b>Examiner</b><br>DAVID J. PARSLEY  | <b>Art Unit</b><br>3643               |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 23,24 and 26-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23,24 and 26-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **Detailed Action**

### ***Amendment***

1. This office action is in response to applicant's amendment dated 3-12-08 and this action is final.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23-24, 26-28, 30-38 and 40-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 1,447,553 to Hudson in view of U.S. Patent No. 4,681,372 to McClure.

Referring to claims 23 and 32, Hudson discloses a trawl apparatus with a trawl – at 10, and a means for gathering seafood/biomass and conveying it to a seafood/biomass receiving vessel – at 24,27, wherein the trawl has an elongate, rigid or flexible collecting cage – see 14, which at an inlet opening is connected to the rear end region of the trawl – at 10 – see figures 2-3, and from the inlet opening extends into a second portion – see figure 3, which has openings for straining water – see at 14 in figure 3, and is terminated in a downstream portion – see at 14 in figure 3, wherein a conveying hose or pipe – at 2-4,4a,8, for conveying seafood/biomass from

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the collecting cage to the vessel – see figures 1-3, opens into the downstream aft portion of the cage via a funnel – at 8 – see figure 3, wherein air or other fluid is supplied from the vessel via a supply hose – at 21, for injection into the conveying hose or pipe, in order by an injector effect or fluid displacement technique – see figures 1-3, to bring seafood/biomass from the collecting cage up to the vessel – see figures 1-3, and wherein a filtering grille is provided to filter away seafood or biomass which is not be led to the funnel – see at the forward portion – at the end of 10 and 13 or – at 24-27, the supply of air or other fluid is, via the air supply hose adapted to be injected at a point on the conveying hose or pipe by means of an injector – at 23, on an upper area of the hose or pipe – at 4 – see figures 2-3, which has a marked upward gradient towards the surface of the sea – see figures 1-3, wherein the upper region is located between the vessel and an upper part of the trawl - see figures 1-3. Hudson does not disclose the upper region with injector is in the upper region substantially spaced from the trawl. McClure does disclose the upper region with injector – at 18, is in the upper region substantially spaced from the collection device - see at 18 in figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Hudson and add the upper region with injector spaced from the trawl of McClure, so as to allow for seafood to be easily conveyed upward from the trawl.

Referring to claims 24 and 33-35, Hudson as modified by McClure further discloses the trawl – at 10, has an elongate rigid or flexible collecting cage – see at the end of 10, 13,14, the collecting cage begin chosen from the set of collecting cages consisting of rigid collecting cages and flexible collecting cages – see figures 1-3 of Hudson, the elongate collecting cage has a first portion, the first portion including an inlet opening – see figures 1-3 of Hudson, the inlet opening is located rearwardly of the trawl and is connected thereto – see at 10,13,14 in figures 1-3 of

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Hudson, the collecting cage has a second portion, the inlet opening leading into the second portion – see at 10,13,14 in figures 1-3 of Hudson, the second portion having openings therein, the opening being operable to strain water – see at 13,14 in figures 1-3 of Hudson, the collecting cage has a third portion mounted downstream of the second portion a funnel – at 8, is connected to the downstream portion – see at 10,13,14 in figures 1-3 of Hudson, a filtering grill – at 13,14, is mounted upstream of the funnel to filter away seafood or biomass which is not to be led to the funnel.

Referring to claim 26, Hudson as modified by McClure further discloses the injector is depth adjustable to be positioned at a required location in the upper area – see via 18 in figures 1-3 of Hudson.

Referring to claim 27, Hudson as modified by McClure further discloses the sorting or filtering grill is provided at the inlet opening of the collecting cage and is arranged to extend obliquely inwards and upwards, downwards and/or sideways in the collecting cage and a portion of roof, bottom and/or walls of the collecting cage located at a downstream end of the grill is open, so that seafood/biomass for example fish or foreign objects over a certain size do not pass through the grill, but are led through at least one portion and away from the collecting cage – see at 10,13,14 in figures 1-3 of Hudson.

Referring to claim 28, Hudson as modified by McClure further discloses the openings for straining water are formed of a self-cleaning grating or grill – see at 10,13,14 in figures 1-3 of Hudson.

Referring to claim 30, Hudson as modified by McClure further discloses the collecting cage is modularly constructed of joined structures – see at 10,13,14 in figures 1-3 of Hudson.

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Referring to claim 31, Hudson as modified by McClure further discloses the funnel is inside the cage – see at 11,30 in figure 3 of Hudson, and the mouth of the funnel faces and is spaced from the closed aft wall of the cage – see figures 1-3 of Hudson.

Referring to claim 36, Hudson as modified by McClure further discloses the injector is depth adjustable to be positioned at a required location in the upper area - see figure 3 of Hudson and figure 1 of McClure.

Referring to claim 37, Hudson as modified by McClure further discloses the sorting or filtering grille is provided at the inlet opening of the collecting cage and is arranged to extend obliquely inwards and upwards, downwards or sideways in the collecting cage – see at 10,13,14 in figures 1-3 of Hudson, and wherein a portion of the roof, bottom and/or walls of the collecting cage located at a downstream end of the grille is open – see at 13,14 in figures 1-3 of Hudson, so that the seafood/biomass over a certain size do not pass through the grille but are led through the at least one open portion and away from the collecting cage – see at 13,14 in figures 1-3 of Hudson.

Referring to claim 38, Hudson as modified by McClure further discloses the openings for straining water are formed of a self-cleaning grating or grille structure which may be rigid or flexible – see figures 1-3 of Hudson.

Referring to claim 40, Hudson as modified by McClure further discloses the collecting cage is modularly constructed of joined sections - see at 13,14 in figures 1-3 of Hudson.

Referring to claim 41, Hudson as modified by McClure further discloses the funnel is inside the cage, the mouth of the funnel facing a spaced from closed aft wall of the cage - see figures 1-3 of Hudson.

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Referring to claim 42, Hudson as modified by McClure further discloses a connection with, after or during the conveyance of the seafood/biomass from the collecting cage to the vessel, there is provided a straining device - at 24-27, to separate seafood/biomass from seawater which accompanies it during its conveyance from the collecting cage to the vessel - see figures 1-3 of Hudson, and wherein in connection with the straining device there is provided a deceleration device - at 26, which is designed to reduce the conveying rate of conveyed seafood/biomass - see figures 1-3 of Hudson.

Referring to claim 43, Hudson as modified by McClure further discloses sensors - at 26 of McClure, are provided on or in connection with the collecting cage for monitoring the position/orientation of the collecting cage in the water, depth or water flow - see at 26 of McClure. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Hudson as modified by McClure and add the sensors of McClure, so as to allow the user to know the conditions of the water in which the device is used.

Claims 29 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hudson as modified by McClure as applied to claims 24 or 38 above, and further in view of U.S. Patent No. 3,440,752 to Minter.

Referring to claims 29 and 39, Hudson as modified by McClure does not disclose that at least one wall, roof or bottom portion of the collecting cage is equipped with a mechanical device for effecting the cleaning of the grating or grille structure. Minter does disclose at least one wall, roof or bottom portion of the collecting cage is equipped with a mechanical device – see figure 7, for effecting the cleaning of the grating or grille structure – see figures 5-7. Therefore it would have been obvious to one of ordinary skill in the art to take the device of

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Hudson as modified by McClure and add the mechanical device of Minter, so as to allow for the pipe to not be clogged during use.

Claims 44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hudson as modified by McClure as applied to claims 23 or 32 above, and further in view of EP Patent No. 467003.

Referring to claims 44-45, Hudson as modified by McClure does not disclose the conveying hose extend from a rear end of the trawl, from the rear end down and along an underside of the trawl towards an inlet region of the trawl, and from the trawl inlet region towards in front of the trawl inlet towards the upper area and the vessel. The European patent does disclose the conveying hose – at 16, extend from a rear end of the trawl, from the rear end down and along an underside of the trawl towards an inlet region of the trawl, and from the trawl inlet region towards in front of the trawl inlet towards the upper area and the vessel – see figure 2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Hudson and add the position of the hose of the European patent, so as to allow for the net to be located above the bottom of a body of water without interference from the hose.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 23-45 have been considered but are moot in view of the new ground(s) of rejection.



***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID J. PARSLEY whose telephone number is (571)272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David J Parsley/  
Primary Examiner, Art Unit 3643